From: Ryan Cole
To: Microsoft ATR
Date: 1/23/02 3:44pm
Subject: Issues with the Microsoft Settlement

Dear DOJ,

After some review of the proposed Microsoft Settlement, I have found fatal weakness in it. They are as follows:

1. Definition A should state that an API is simply an interface between applications and the operating system. Narrowing this definition is not only inaccurate, but opens a pandoras box of loop holes for Microsoft.

2. Definitions J and K are also too narrowed, so much so that they exclude their real meanings. Middleware is simply software, or a part of software, that mediates between an application and a network. Microsofts .NET strategy will tend to combine OS updates, middleware, and end-ware applications. Anything other than an accurate definition, accounting for the fact that middleware can exist as parts of other programs, will not pertain to many soon to be released products and be too easily circumnavigateable.

3. Definition U should simply state "Any operating system produced by Microsoft."

4. While Section III.I is very helpful, it should go further to require Microsoft specifically explain which software patents protect the Windows API.

5. While this settlement makes an attempt to protect OEM's from Microsoft, unfortuneately too many loop holes still exist, leaving OEM's, especially smaller OEM's, subject to retaliation. Anything short of consistent per unit published prices period, will allow for such retaliation.

6. No tricky licenses! Microsoft needs to be restricted to licensing practices that do not dictate the operating platform the product is to be used with, restrict free software development, or otherwise restrict a products use to hinder Microsoft competitors.

7. Consistent and published file formats. When Microsoft changes file formats, it stifles competition and innovation, while forcing their own users to upgrade by way of sheer market leverage. Properly designed file formats rarely need to be changed or overhualed, and surely not with every

product release. Storing information is quite
straightforward, yet Microsoft surely has succeeded in
innovating ever more complex ways to store it. Restricting
file format changes and forcing Microsoft to publish
existing ones is necessary. This would greately benifit the
exchange of information, and helping to solve one of the
most common issues faced by Microsoft and non-Microsoft
users alike.

Thanks for your careful consideration of these issues,

--Ryan

   Ryan Cole
 Programmer Analyst
 www.iesco-dms.com
   707-468-5400